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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/826,804      | 04/06/2001  | Masaomi Takagi       | 040679/1246         | 6447             |

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FOLEY AND LARDNER  
SUITE 500  
3000 K STREET NW  
WASHINGTON, DC 20007

EXAMINER

CULBRETH, ERIC D

ART UNIT

PAPER NUMBER

3616

DATE MAILED: 01/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/826,804

Applicant(s)

TAKAGI ET AL.

Examiner

Eric D Culbreth

Art Unit

3616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 1-8, 17 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-16, 18 and 19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Claims 1-8, 17 and 20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 6.
2. Applicant's election with traverse of invention III in Paper No. 6 is acknowledged. The traversal is on the ground(s) that there is no serious burden on the examiner to examine all the claims in the present application because of the automated search tools available at the Office enabling simultaneous searching of multiple classes and subclasses. This is not found persuasive because it would still be a serious burden on the examiner to locate and apply art to three different inventions involving processes and articles, with articles in addition being sometimes specific to a vehicle and sometimes broadly a metallic product.

The requirement is still deemed proper and is therefore made FINAL.

### ***Drawings***

3. The drawings are objected to because Figure 18 should apparently be labeled "Related Art", as it is not an illustration of the current invention (see page 2) and because there is no mention of Figures 17, 18 and 6a-d in the Detailed Description. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

*Specification*

4. The disclosure is objected to because of the following informalities:
  - a. On page 2, line 15 “is” should apparently follow “which”;
  - b. On page 7, line 2 “(perform)” is not understood;
  - c. On page 7, lines 10-12, it is not clear why thick portion 20a forms;
  - d. Page 7, lines 13-14 seem reversed (link brackets 13 and 14 are mounted on member 20, not vice versa).

Appropriate correction is required.

*Claim Rejections - 35 USC § 112*

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 9-16 and 18-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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In claim 9, line 6 and claim 18, line 6 there is no clear antecedent basis for “at least one of the side member” as a pair of side members was previously recited. The end of claim 14 is redundant.

*Claim Rejections - 35 USC § 102*

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 18-19 as best understood are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese Patent 5-65076.

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Japanese '076 discloses a vehicular member construction comprising a pair of side members SM extending longitudinally (Figure 13) of a vehicle and spaced apart by cross members CM, CM. At least one of the side member and cross member (i.e., one side member SM) has a hollow cross section with a cross shaped portion 3, 4. Regarding claim 19, at least a side member SM is made of aluminum alloy (CONSTITUTION of ABSTRACT). The claim limitations regarding how the aluminum member is made (i.e., bending a metallic straight member produced by extrusion) is not patentably distinguishing in an article claim (see MPEP 2113).

9. Claims 9 and 14-16 as best understood are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese Patent 61-291272.

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Japanese '272 discloses (claim 9) a vehicular member construction comprising a pair of side members 1, 2 extending longitudinally of a vehicle and spaced by cross members 3, 10 in a widthwise direction of the vehicle. At least a side member 1 of the side members and cross members has a hollow cross section comprising a thin walled portion at 12 and a thick walled portion at 11 which is thicker than the thin walled portion. Regarding claim 14, bracket 7 is attached to the outer thick wall 11 for linking the side member and a wheel as functionally recited (i.e., "for linking a side member and a wheel"). The manner in which the walls are formed (claim 15) is not patentably distinguishing in an article claim, and the dies used for making the member (claim 16) are not patentably distinguishing, since the preamble of the claim(s) defined the invention as a vehicular member construction.

10. Claims 9-13 as best understood are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese Patent 6-99870.

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Japanese '870 discloses (claim 9) a vehicular member construction comprising a pair of side members 5, 5 extending longitudinally of a vehicle and spaced by cross member 6 in a widthwise direction of the vehicle. At least a side member 5 of the side members and cross members has a hollow cross section comprising a thin walled portion at i and a thick walled portion at o which is thicker than the thin walled portion. Regarding claims 10-13, the CONSTITUTION section of the ABSTRACT teaches the members 5 are made of aluminum, and the features of the how the member is made (i.e., bending a straight member, making the thin and thick walls by extrusion) are not patentably distinguishing in an article claim. The thick and thin walls extend longitudinally.

### *Conclusion*

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Japanese Patent 4-55172 discloses a longitudinal member with a reinforced cross section.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric D Culbreth whose telephone number is 703/308-0360. The examiner can normally be reached on Monday-Thursday, 9:30-7:00 alternate Fridays off.

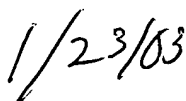
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 703-308-2089. The fax phone numbers for the organization where this application or proceeding is assigned are 703/746-3508 for regular communications and 703/308-2571 for After Final communications.



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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Eric D Culbreth  
Primary Examiner  
Art Unit 3616



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January 23, 2003